

# CABINET

16<sup>TH</sup> OCTOBER, 2023

## SUBJECT: APPLYING INTENTIONALITY TO PRIORITY NEED (HOMELESSNESS ORDER)

### Purpose:

- To provide the background of why we apply intentionally homeless to the current 10 categories of Priority Need and why we should apply intentionality to the additional 11<sup>th</sup> category added; and
- To recommend that Cabinet approve to apply Intentionality across all priority need categories under the Housing (Wales) Act 2014

### Recommendations / key decisions required:

- To note the contents of the attached report; and
- Recommend that Cabinet approves the retention of intentionality for all 10 priority need categories listed under the Housing (Wales) Act 2014 and applies intentionality to the additional 11<sup>th</sup> category of Street Homeless.

### Reasons:

To provide the background of why we apply intentionally homeless to the current 10 categories of Priority Need and why we should apply intentionality to the additional 11<sup>th</sup> category added.

Cabinet Decision Required YES – 16<sup>th</sup> October, 2023

Council Decision Required NO

CABINET MEMBER PORTFOLIO HOLDER:-  
Cllr. L. Evans, Deputy Leader & Homes Portfolio Holder

Directorate: Communities

Designations:

Email addresses:

Name of Head of Service:  
Jonathan Morgan

Head of Housing &  
Public Protection

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**EXECUTIVE SUMMARY  
CABINET  
16<sup>TH</sup> OCTOBER 2023**

**APPLYING INTENTIONALITY TO PRIORITY NEED  
(HOMELESSNESS ORDER)**

## **1. Introduction**

The Housing (Wales) Act 2014 came into force on 27<sup>th</sup> April 2015. In July 2015 the Authority approved a report to enable intentionality to be applied across the original 10 categories of Priority Need.

Local Authorities apply the intentionality test to consider whether a person presenting as homeless has done, or failed to do something which could be considered to have caused the loss of their settled accommodation and could therefore be deemed to have caused their homelessness 'intentionally'. Where a person has become homeless intentionally, the Authority does not have a statutory duty to secure permanent accommodation for that person.

In October 2022 the Homelessness (Priority Need and Intentionality) (Wales) Regulation 2022 came into force. This added a new category of Priority need known as Street Homelessness.

Since this introduction, the Authority has been unable to apply the intentionality test to any household that presents as Street Homeless thus allowing them to be owed the full housing duties under the legislation.

## **2. Main Body of the report**

The attached report highlights the changes within the Act regarding intentionally homeless decisions.

The Housing (Wales) Act 2014 states;

*“A person is intentionally homeless if .... the person deliberately does or fails to do anything in consequence of which the person ceases to occupy accommodation which is available for the person’s occupation and which it would have been reasonable for the person to continue to occupy”.*

If an intentional homeless decision is taken the Council’s housing duties to that household are significantly reduced.

In order to allow Councils to make the decision on whether to apply intentionality, the Welsh Government has split households into the priority need groups.

These groups are where the household;

- is a pregnant woman
- includes household with dependent children
- is vulnerable due to a special reason i.e. old age, physical disabilities or mental illness / learning disability
- is homeless as a result of an emergency such as flood, fire or other disaster
- is vulnerable due to fleeing domestic violence / abuse or threatened violence
- is vulnerable due to being a 16 or 17 year old
- is vulnerable due to being a care leaver (18-20 year olds)
- is a young person at particular risk of sexual or financial exploitation (18-20 year olds)
- is vulnerable due to leaving the armed forces
- is vulnerable due to other reasons, this may include ex-offenders vulnerable because of the length of a custodial sentence

In October 2022 Welsh Government has added an additional 11<sup>th</sup> category of Street Homeless.

The Authority needs to decide based on the information included within the main report if they wish to continue with applying the intentionally homeless test across the current categories and the additional category of Street Homeless.

### 3. Recommendations / key decisions required:

- To note the contents of the attached report; and
- Recommend that Cabinet approves the retention of intentionality for all 10 priority need categories listed under the Housing (Wales) Act 2014 and applies intentionality to the additional 11<sup>th</sup> category of Street Homeless.

<b>DETAILED REPORT ATTACHED?</b>	<b>YES</b>
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# IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: **Jonathan Morgan** Head of Housing and Public Protection

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	YES	NONE	YES	NONE	YES

## 2. Legal

The decision and subsequent publication of the decision will meet the requirement of the Housing (Wales) Act 2014 and enable the Council to continue make intentionally homeless decisions across the 11 priority need categories.

## 3. Finance

Failure to apply the intentionality test will require the Authority to continue owing a duty to accommodate all households, with current pressures in particular the shortage of affordable single person accommodation this may take time. It will also mean the Authority's costs for temporary accommodation will continue to increase.

## 5. Risk Management Issues

Failure to implement the Intentionality test will mean:

- The Authority will continue to have a duty to accommodate those who have carried out deliberate acts which have led to their homelessness.
- Increased use of temporary, and more expensive accommodation, to meet housing need; and
- Perception that unacceptable behaviour is accepted and that individuals can still access accommodation regardless of their behaviour.

## 7. Physical Assets

Council housing will be used as solutions for temporary as well as permanent solutions.

# CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Jonathan Morgan

Head of Housing & Public Protection

<b>1. Scrutiny Committee request for pre-determination</b>		YES
<b>Scrutiny Committee</b>	<b>Communities, Homes &amp; Regeneration</b>	
<b>Date the report was considered:-</b>	<b>28<sup>th</sup> September, 2023</b>	
<b>Scrutiny Committee Outcome/Recommendations:-</b>		
<p><b>UNANIMOUSLY RESOLVED to recommend to Cabinet that it approves the retention of intentionality for all 10 priority need categories listed under the Housing (Wales) Act 2014 and that the Council also applied intentionality to the 11<sup>th</sup> category of Street Homeless.</b></p>		

**2. Local Member(s)**

N/A

**3. Community / Town Council**

N/A

**4. Relevant Partners**

N/A

**5. Staff Side Representatives and other Organisations**

N/A

<b>CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED</b>  YES	<b>Include any observations here</b>
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**Section 100D Local Government Act, 1972 – Access to Information**  
**List of Background Papers used in the preparation of this report:**  
**THESE ARE DETAILED BELOW**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
<b>Housing (Wales) Act 2014</b>		<a href="https://legislation.gov.uk">Housing (Wales) Act 2014 (legislation.gov.uk)</a>
<b>Code of Guidance for Local Authorities on the Allocation of Accommodation &amp; Homelessness</b>		<a href="https://gov.wales/publications/2019-03-12/allocation-of-accommodation-and-homelessness-guidance-for-local-authorities.pdf">allocation-of-accommodation-and-homelessness-guidance-for-local-authorities.pdf (gov.wales)</a>
<b>Code of Guidance - Addendum</b>		<a href="https://gov.wales/publications/2019-12-12/code-of-guidance-addendum.pdf">code-of-guidance-addendum.pdf (gov.wales)</a>  <a href="https://gov.wales/sites/default/files/publications/2019-12/additional-guidance.pdf">https://gov.wales/sites/default/files/publications/2019-12/additional-guidance.pdf</a>